

HOUSE No. 2125

By Mr. Toomey of Cambridge, petition of Timothy J. Toomey, Jr., and others relative to the insurance policies for persons with firearm licenses. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

PETITION OF:

Timothy J. Toomey, Jr.	Patricia D. Jehlen
Carl M. Sciortino, Jr.	Martha M. Walz
David Paul Linsky	Alice Hanlon Peisch

In the Year Two Thousand and Five.

AN ACT RELATIVE TO CONTROLLING FIREARMS IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 131 of Chapter 140 of the General Laws,
2 as appearing in the 1992 Official Edition, is hereby amended by
3 adding the following new paragraph after paragraph three:—
4 No license to carry shall be issued pursuant to this section
5 unless and until the applicant for the license or for the renewal of
6 an existing license presents to the licensing authority a complete
7 list of every handgun owned by the applicant along with a certifi-
8 cate of insurance verifying that the applicant has a valid insurance
9 policy insuring against any harm or damage that might arise out of
10 the use of each weapon on said list. The applicant shall swear
11 under the penalties of perjury that said list is a complete list of all
12 handguns owned by the applicant. The insurance policy shall be in
13 an amount of at least \$250,000 and shall list the specific weapons
14 covered by the policy. The list presented to the licensing authority
15 shall match the list on the insurance policy or the license or
16 renewal shall not issue. In the event that a holder of a license to
17 carry acquires a new handgun after the issuance of the license or
18 the renewal of an existing license, the holder shall register the

19 weapon as required by law and shall forward to the licensing
20 authority a true copy of a certificate of insurance verifying the
21 existence of insurance, as required herein, for said new weapon or
22 weapons within thirty days of acquisition. Such a policy of insur-
23 ance shall be available to satisfy any judgment for personal
24 injuries or property damages arising out of the unintentional, acci-
25 dental or unlawful use of an insured weapon, provided that, in the
26 event of multiple judgments, judgments for medical bills shall
27 have a priority in the order that said judgments are satisfied and,
28 provided further, that medical bills paid for by or owed to the
29 Commonwealth and any municipal or regional governmental
30 entity shall have a super priority and shall be satisfied first out of
31 all such judgments for medical bills. In the event that a judgment
32 issues against the license holder for personal injuries or property
33 damage that cannot be satisfied by the required insurance policy
34 due to the holder's failure to maintain said policy, the license
35 holder may be punished by imprisonment by not more than five
35 years.

1 SECTION 2. Section 131½ of Chapter 140 of the General
2 Laws, as so appearing, is hereby amended by striking out the
3 second sentence and inserting in place thereof the following sen-
4 tence:—

5 The board shall consist of nine individuals, one of whom shall
6 be a member of the gun owners action league, one of whom shall
7 be a member of stop handgun violence, one of whom shall be a
8 police chief selected from a list of four selected by the police
9 chiefs association, one of whom shall be a district attorney
10 selected from a list of three selected by the district attorney's
11 association, and one of whom shall be the director of the firearms
12 records bureau within the criminal history systems board.

1 SECTION 3: Section 129C of Chapter 140 of the General
2 Laws, as so appearing, is hereby amended by striking out in line
3 16 the words "shall be made" and inserting in that line after the
4 word "gun," the following:— "a seller or owner shall make".

1 SECTION 4. Section 131 subsection (d) of Chapter 140 of the
2 General Laws, as so appearing, is hereby amended by inserting
3 thereafter the following sentence:—

4 (viii) has not successfully completed a firearms safety course of
5 at least twenty hours, including a minimum of four hours of prac-
6 tical shooting instruction at a firing range that has been approved
7 by the secretary of public safety or his designee.

1 SECTION 5. Section 123 of Chapter 140 of the General Laws,
2 as so appearing, is hereby amended by striking out, in line 64 the
3 word “and”, and by inserting after the word “thirty-one” the
4 following words:— “; and that no more than one firearm shall be
5 sold to any person in the Commonwealth who has purchased a
6 firearm within the past 30 days.”

1 SECTION 6. Section 131K of Chapter 140 of the General
2 Laws, as so appearing, is hereby amended by striking out the first
3 sentence and inserting in place thereof the following sentence:—

4 “All weapons as defined in section 121 including, but not lim-
5 ited to, firearms, large capacity weapons, rifles and shotguns sold
6 within the commonwealth without a safety device designed to pre-
7 vent the discharge of such weapon by unauthorized users and
8 approved by the colonel of the state police including, but no lim-
9 ited to, mechanical locks or devices designed to recognize and
10 authorize, or otherwise allow the firearm to be discharged by its
11 owner or authorized user, by solenoid use-limitation devices, key
12 activated or combination trigger or handle locks, radio frequency
13 tags, automated fingerprint identification systems or voice recog-
14 nition, provided, that such device is commercially available, shall
15 be defective and the sale of such weapons shall constitute a breach
16 of warranty under section 2-314 of chapter 106 and an unfair and
17 deceptive trade act or practice under section 2 of chapter 93A.”

1 SECTION 7. Chapter 269 of the General Laws, as so
2 appearing, is hereby amended by striking out section 10E and
3 inserting place thereof the following section:—

4 Section 10E. Whoever, except as provided by law, in a single
5 transaction or occurrence or in a series of transactions within a
6 twelve month period, knowingly or intentionally distributes, sells,

7 or transfers possession of a quantity of firearms, rifles, shotguns,
8 machine guns, assault weapons or any combination thereof, shall,
9 if the quantity of firearms, rifles, shotguns, machine guns, assault
10 weapons or any combination thereof is:

11 (1) Three or more, but less than ten, be punished by a term of
12 imprisonment of not more than ten years in the state prison. No
13 sentence imposed under the provisions of this paragraph shall be
14 for less than a mandatory minimum term of imprisonment of five
15 years and a fine of not more than seventy-five thousand dollars
16 may be imposed but not in lieu of the mandatory minimum term
17 of imprisonment, as established herein.

18 (2) Ten or more, but less than twenty, be punished by a term of
19 imprisonment of not more than ten years in the state prison. No
20 sentence imposed under the provisions of this paragraph shall be
21 for less than a mandatory minimum term of imprisonment of
22 seven years and a fine of not more than one hundred and twenty-
23 five thousand dollars may be imposed but not in lieu of the
24 mandatory minimum term of imprisonment, as established herein.

25 (3) Twenty or more, be punished by a term of imprisonment not
26 less than ten years up to life imprisonment in the state prison. No
27 sentence imposed under the provisions of this paragraph shall be
28 for less than a mandatory minimum term of imprisonment of
29 twelve years and a fine of not more than one hundred and seventy-
30 five thousand dollars may be imposed but not in lieu of the
31 mandatory minimum term of imprisonment, as established herein.

32 A prosecution commenced under this section shall not be
33 placed on file or continued without a finding, and the sentence
34 imposed upon a person convicted of violating any provision of
35 said section shall not be reduced to less than the mandatory min-
36 imum term of imprisonment as established in said section, nor
37 shall any sentence of imprisonment imposed upon any person be
38 suspended or reduced until such person shall have served said
39 mandatory minimum term of imprisonment.

40 A person convicted of violating any provision of this section
41 shall not, until he shall have served the mandatory minimum term
42 of imprisonment established herein, be eligible for probation,
43 parole, furlough, work release, or receive any deduction from his
44 sentence for good conduct under sections one hundred and
45 twenty-nine, one hundred and twenty-nine C and one hundred and

46 twenty-nine D of chapter one hundred and twenty-seven; pro-
47 vided, however, that the commissioner of corrections may, on the
48 recommendation of the warden, superintendent, or other person in
49 charge of the correctional institution, grant to said offender a tem-
50 porary release in the custody of an officer of such institution for
51 the following purposes: to attend the funeral of a relative, to visit
52 a critically ill relative, or to obtain emergency medical or psychi-
53 atric services unavailable at said institution. The provisions of
54 section eighty-seven of chapter two hundred and seventy-six shall
55 not apply to any person, seventeen years of age or over, charged
56 with a violation of said sections, or to any child between the age
57 of fourteen and seventeen, so charged, if the court is of the
58 opinion that the interests of the public require that he shall be tried
59 for such offense instead of being dealt with as a child.